

### REMARKS

This communication responds to the Office Action dated November 26, 2010. Claims 1-4, 6, 16, and 20 are amended. Claims 5 and 17 were previously canceled, and no claims are currently canceled. No claims are newly added. As a result, claims 1-4, 6-16, and 18-30 remain pending in this Application. It is noted that unless otherwise stated herein, amendments to the claims have been made to clarify meaning, correct typographical errors, provide proper antecedent basis, and/or provide consistent terminology, and not for reasons related to patentability. Thus, no new matter has been introduced.

### Interview Summary

The undersigned thanks Examiner Tae Kim for the courtesy of a telephone interview on November 19, 2010 with Garth Vivier. Examiner's amendment to overcome potential § 112 issues was discussed.

### The Rejection of Claims Under § 112

Claims 1-4, 6-16, and 18-30 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. This rejection is respectfully traversed because a proper *prima facie* case of lack of written description has not been established.

The Examiner stated at p. 2, paragraph 3 of the Office Action, that the limitation of "the at least one fade out indicator indicates a frequency of the selected master data being accessed or modified for a certain time period" is not part of the original disclosure. The undersigned respectfully disagrees.

A relevant portion of M.P.E.P. provides that:

The inquiry into whether the description requirement is met must be determined on a case-by-case basis and is a question of fact. In *re Wertheim*, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976). A description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption. See, e.g., In *re Marzocchi*, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971).

The examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description. The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. Wertheim, 541 F.2d at 263, 191 USPQ at 97.

M.P.E.P. § 2163.04.

The Examiner has the duty to establish a *prima facie* case of lack of written description. As noted above, the presumption is that the disclosure is adequate. The Examiner must overcome this presumption. As noted above, he must do this by presenting a preponderance of evidence why a person of ordinary skill in the art at the time the invention was made would not recognize the invention as claimed from the disclosure in the specification. The undersigned respectfully submits that the invention as claimed, for instance, in claim 1 is fully supported by the disclosure in the specification as originally filed.

The limitation of “the at least one fade out indicator indicates a frequency of the selected master data being accessed or modified for a certain time period” is fully supported in the as-filed specification, for example, at paragraphs [08]-[11], [45]-[52] and [87]-[90]. In particular, Applicants explicitly teach that “[o]ne of more fade out indicators may be associated with the master data to remove **data that are not accessed or modified by a fade out date, within a fade out period** or after a fade out level of use.” The Specification at paragraph [08], lines 3-5; *see also* paragraph [46], lines 1-4 and paragraph [48], lines 1-3. Applicants further teach that “the fade out indicator 2150 may be updated **when the associated data are retrieved or altered**” (the Specification at paragraph [49], 3-5) and that “a batch program in MDMS 2000 may **track the most frequently used master data 8100**, while a batch program in MDPS 4000 may track trends in system usage of master data 8100” (the Specification at paragraph [52], lines 5-7). Finally, Applicants teach that “[u]pdating (671) at least a portion of the at least one fade out indicator 2150 may occur **when the object 7000 is subject to maintenance, or otherwise interrogated (e.g., read).**” The Specification at paragraph [87], lines 6-8.

Given these teachings, the limitation of “the at least one fade out indicator indicates a frequency of the selected master data being accessed or modified for a certain time period,” as recited in independent claim 1, is fully supported in the disclosure of the as-filed specification. The Examiner does not provide a rationale as to why a person of ordinary skill in the art at the

time the invention was made would not recognize the invention as claimed in, for example, claim 1, despite the sufficient support as discussed above. Therefore, the Examiner has failed to establish a proper *prima facie* case of lack of written description as required by M.P.E.P. § 2163.04.

The arguments in favor of patentability of claim 1 similarly apply to independent claims 16 and 20, which each recite similar elements.

For at least the reasons stated above, the undersigned respectfully submits that independent claims 1, 16, and 20 and their dependent claims 2-4, 6-15, 18, 19, and 21-30 meet the written description requirement. Therefore, it is respectfully requested that the rejection of claims 1-4, 6-16, and 18-30 under 35 U.S.C. § 112, first paragraph, be reconsidered and withdrawn.

Claims 1-4, 6-16, and 18-30 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

The Examiner stated at p. 3, paragraph 5 of the Office Action, that certain claim elements in claims 1, 16, and 20 lack sufficient antecedent bases. Independent claims 1, 16, and 20 have been amended to provide sufficient antecedent basis for relevant terms. Dependent claims 2-4 have been amended to accommodate the changes in independent claim 1.

The undersigned respectfully submits that amended independent claims 1, 16, and 20 and their dependent claims 2-4, 6-15, 18, 19, and 21-30 particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Therefore, it is respectfully requested that the rejection of claims 1-4, 6-16, and 18-30 under 35 U.S.C. § 112, first paragraph, be reconsidered and withdrawn.

CONCLUSION

The undersigned respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (612) 371-2151 to facilitate prosecution of this application.

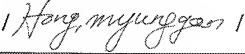
If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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